



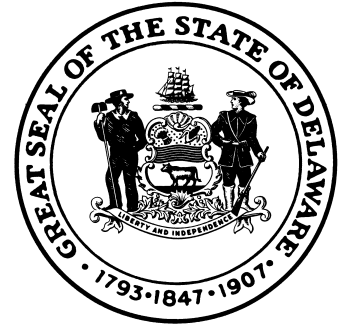
TITLE 11

CHAPTER III

OFFENSES INVOLVING PROPERTY

SUBPART A. ARSON AND RELATED OFFENSES

CRIMES AND CRIMINAL PROCEDURE SPECIFIC OFFENSES



§ 801. Arson in the Third Degree; Affirmative Defense; Class G Felony.

(a) A person is guilty of arson in the third degree when the person recklessly damages a building by intentionally starting a fire or causing an explosion.

(b) In any prosecution under this section it is an affirmative defense that no person other than the accused had a possessory or proprietary interest in the building.

Arson in the third degree is a class G felony. (11 Del. C. 1953, § 8; 70 Del. Laws, c. 186, § 1.)

§ 802. Arson in the Second Degree; Affirmative Defense; Class D Felony.

(a) A person is guilty of arson in the second degree when the person intentionally damages a building by starting a fire or causing an explosion.

(b) In any prosecution under this section it is an affirmative defense that:

- (1) No person other than the accused had a possessory or proprietary interest in the building, or if other persons had such interests, all of them consented to the accused's conduct; and
- (2) The accused's sole intent was to destroy or damage the building for a lawful purpose; and
- (3) The accused had no reasonable ground to believe that the conduct might endanger the life or safety of another person or damage another building.

Arson in the second degree is a class D felony. (11 Del. C. 1953, § 802; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 803. Arson in the First Degree; Class C Felony.

A person is guilty of arson in the first degree when the person intentionally damages a building by starting a fire or causing an explosion and when:

- (1) The person knows that another person not an accomplice is present in the building at the time; or
- (2) The person knows of circumstances which render the presence of another person not an accomplice therein a reasonable possibility.

Arson in the first degree is a class C felony. (11 Del. C 1953, § 803; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 804. Reckless Burning or Exploding; Class A Misdemeanor.

(a) A person is guilty of reckless burning or exploding when the person intentionally starts a fire or causes an explosion, whether on the person's own property or on another's, and thereby recklessly places a building or other real or personal property of another in danger of destruction or damage or places another person in danger of physical injury.

(b) Reckless burning or exploding shall be punished as follows:

- (1) Where the total amount of pecuniary loss caused by the burning or exploding, when totaled for all victims, is less than \$1,500, such burning or exploding shall be a class A misdemeanor.
- (2) Where the total amount of pecuniary loss caused by the burning or exploding, when

totaled for all victims, is \$1,500 or more, such burning or exploding shall be a class G felony. (11 Del. C. 1953, § 804; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 344, §§ 1, 2.)

§ 805. Cross or Religious Symbol Burning; Class A Misdemeanor.

A person is guilty of cross or religious symbol burning when the person burns, or causes to be burned, any cross or other religious symbol, upon any private or public property without the express written consent of the owner of such property and without a minimum of 48 hours advanced notification of the proposed burning to the fire board or call board of the county in which the burning is to take place.

Cross or religious burning is a class A misdemeanor. (69 Del. Laws, c. 106, § 1; 70 Del. Laws, c. 186, § 1.)

§ 913. Insurance Fraud; Class G Felony.

(a) A person is guilty of insurance fraud when, with the intent to injure, defraud or deceive any insurer the person:

- (1) Presents or causes to be presented to any insurer, any written or oral statement including computer-generated documents as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such statement contains false, incomplete or misleading information concerning any fact or thing material to such claim; or
- (2) Assists, abets, solicits or conspires with another to prepare or make any written or oral statement that is intended to be presented to any insurer in connection with, or in support of, any claim for payment of other benefit pursuant to an insurance policy, knowing that such statement contains any false, incomplete or misleading information concerning any fact or thing material to such claim.

Insurance fraud is a class G felony.

(b) All insurance claims forms shall contain a statement that clearly states in substance the following: "Any person who knowingly, and with intent to injure, defraud or deceive any insurer, files a statement of claim containing any false, incomplete or misleading information is guilty of a felony." The lack of such a statement shall not constitute a defense against prosecution under this section.

(c) For the purposes of this section, "statement" includes, but is not limited to, a police report, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, X rays, test result or other evidence of loss, injury or expense; "insurer" shall include, but is not limited to, a health service corporation or health maintenance organization; and "insurance policy" shall include, but is not limited to, the subscriber and members contracts of health service corporations and health maintenance organizations. (64 Del. Laws, c. 194; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 1243. Obstructing Fire-Fighting Operations; Class A Misdemeanor.

A person is guilty of obstructing fire-fighting operations when the person intentionally and unreasonably obstructs the efforts of any firefighter in extinguishing a fire, or prevents or dissuades another person from extinguishing or helping to extinguish a fire.

Obstructing fire-fighting operations is a class A misdemeanor. (11 Del. C. 1953, § 1243; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.)

§ 1245. Falsely Reporting an Incident; Unclassified Misdemeanor.

A person is guilty of falsely reporting an incident when, knowing the information reported, conveyed or circulated is false or baseless, the person:

- (1) Initiates or circulates a false report or warning of or impending occurrence of a fire, explosion, crime, catastrophe or emergency under circumstances in which it is likely that public alarm or inconvenience will result or that fire-fighting apparatus, ambulance or a rescue vehicle might be summoned; or

- (2) Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion or other catastrophe or emergency which did not in fact occur or does not in fact exist; or
- (3) Reports to a law-enforcement officer or agency:
 - a. The alleged occurrence of an offense or incident which did not in fact occur; or
 - b. An allegedly impending occurrence of an offense or incident which is not in fact about to occur; or
 - c. False information relating to an actual offense or incident or to the alleged implication of some person therein; or
- (4) Without just cause, calls or summons by telephone, fire alarm system or otherwise, any fire-fighting apparatus, ambulance or rescue truck.

Falsely reporting an incident is an unclassified misdemeanor. Notwithstanding penalties as otherwise provided, any person convicted under this section shall be required to reimburse the State, or other responding or investigating government agency, for any expenses expended in the investigation and/or response to the incident falsely reported. (11 Del. C. 1953, § 1245; 58 Del. Laws, c. 497, § 1; 59 Del. Laws, c. 469, § 1; 60 Del. Laws, c. 542, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 412, § 1.)

§ 1338. Bombs, Incendiary Devices, Molotov Cocktails and Explosive Devices; Class D Felony.

- (a) For purposes of this section the following definitions shall be made applicable:
 - (1) “Molotov cocktail” means a makeshift incendiary bomb made of a breakable container filled with flammable liquid and provided with a wick composed of any substance capable of bringing flame into contact with the liquid.
 - (2) “Incendiary device” means any item designed to ignite by hand, chemical reaction or by spontaneous combustion and is not designed for any lawful purpose or use whatsoever, or any lawful purpose or use has been or is terminated.

(b) Whoever manufactures, transfers, uses, possesses or transports any bomb, incendiary device, Molotov cocktail or device designed to explode or produce uncontained combustion with intent to cause bodily harm or damage to any property or thing shall be guilty of class D felony.

(c) Any other provision of this Criminal Code notwithstanding, any person over 16 years old who violates this section shall be prosecuted as an adult.

(d) In any prosecution under this section, it is prima facie evidence of intent to cause bodily harm or damage to any property or thing if the accused had possession of the device prescribed by this section. (11 Del. C. 1953, § 1338; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8.)